IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE V.V.S.RAO**

**WRIT PETITION NO : 7423 of 2004**

Between:

1 Sri Tangudu Vaikunta Rao, s/o. Sri Kameswara Rao

residing at Palasa, Srikakulam District.
2 Sri Tangudu Veera Raju, S/o. Sri Kameswara Rao
residing at Palasa, Srikakulam District.

**..... PETITIONERS**

AND

1 District Registrar of Assurances, Srikakulam.
2 Sub Registrar of Assurances, Kasibugga, Srikakulam District.

**....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of mandamus under Art.226 of the Constitution of India declaring the proceedings of the 1st respondent bearing No.1-3/2003/C.No.244/2003/G1 Dt.21.7.2003 calling upon the petitioner to pay the deficit duty of Rs.51,360/- and penalty of Rs.500 in respect of original document bearing No.P.25/99 Dated 31-3-1999 pending for registration before 2nd respondent as arbitrary, illegal, without jurisdiction.

**Counsel for the Petitioners : MR.M.S.R.SUBRAHMANYAM**

**Counsel for the Respondents : GP FOR REVENUE**

**The Court made the following :**

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**ORDER :**

The two petitioners herein and their father one Sri Kameswara Rao constituted a firm known as M/s. Sree Hari Shankar Cashew Manufacturing Company. Under a deed of retirement dated 31-3-1999, father of the petitioners retired as partner in the said firm effective from 31-3-1999 and under clause (5) of the said deed the petitioners are entitled to continue the partnership business as a going concern. The deed was presented for registration, duly paying a fixed stamp duty of Rs.300/- under Article 41 (b), Schedule I-A of Indian Stamp Act, 1899 (for short 'the Act'). The Sub-Registrar, Kasibugga, referred the matter to the District Registrar, Srikakulam, duly impounding the document under Section 33 of the Act. After issuing a show-cause notice and after receiving the explanation, the District Registrar, first respondent herein, by impugned proceedings dated 21-7-2003 adjudicated the document under Section 2 (5) of the Act chargeable to duty under Article 13 (b) of Schedule I-A of the Act and the petitioners herein were called upon to pay the deficit stamp duty of Rs.51,360/- assailing which the present writ petition is filed.

Though interlocutory applications are listed, the matter was heard finally and is being disposed of with the consent of the parties. The power exercised by first respondent is subject to the control of the Chief Controlling Revenue authority i.e., Inspector General of Stamps and Registration. It is always open to the petitioners to raise their objections by making a representation to such Chief Controlling Revenue authority. In view of the remedy available, this Court is not inclined to go into the question at this stage. Two weeks time is granted to make such representation/ revision petition before the Chief Controlling Revenue authority, who on such representation being made, shall consider all submissions and pass appropriate orders.

The writ petition, with the above observations, is disposed of. No costs.

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(V.V.S. RAO, J.)

04-10-2004.

Msr.

NOTE : Office to dispatch a copy of this

order within one week.

B/o.

Msr.

ASSISTANT REGISTRAR.

// TRUE COPY //

SECTION OFFICER.

To

1 District Registrar of Assurances, Srikakulam.
2 Sub Registrar of Assurances, Kasibugga, Srikakulam District.

3 The Inspector General of Stamps & Registration,

A.P.,Hyderabad.

4 2CCs to G.P. for Revenue, High Court Buildings, Hyderabad.

5 2CD copies

**HON'BLE SRI JUSTICE V.V.S. RAO**

**WRIT PETITION NO : 7423 of 2004**

**04-10-2004.**

**(Msr)**